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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91172327
Party	Defendant Powers, Tipmuni C. Powers, Tipmuni C. 20 Pidgeon Hill Drive, #104 Sterling, VA 20165
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Attachments	LENDMAX Answer to Amended Opposition.pdf ( 5 pages )(47914 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

RE/MAX International, Inc.	)	
Opposer,	)	Opposition No. 91172327
v.	)	Application. Serial No. 78525633
Tipmunity C. Power,	)	Mark: LendMax & Design
Applicant.	)	(see below)



ANSWER TO AMENDED NOTICE OF OPPOSITION

The following is the Answer Tipmunity C. Powers (“Applicant”), owner of Federal Trademark Application Serial No. 78525633 for the mark LendMax & Design, by and through Counsel, Erik M. Pelton, Esq., to the Notice of Opposition mailed August 14, 2006, on behalf of RE/MAX International, Inc., (hereinafter “Opposer”), and assigned Opposition No. 91172327.

Opposer has apparently filed an Amended Notice of Opposition on August 17, 2006, and later filed a certificate of mailing, without any attached document, on September 1, 2006, via the Board’s electronic filing system. To date, Counsel for Applicant has not received a hard copy of the Amended Notice of Opposition or any notice from the Board regarding a deadline for responding to the Amended Notice of Opposition. Nonetheless, in the interest of judicial efficiency, the Applicant is responding to the Amended Notice of Opposition which apparently was filed electronically by Opposer of August 17, 2006.

Applicant hereby responds, solely for the purpose of this proceeding, to each of the grounds set forth in the Amended Notice of Opposition, as follows:

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the Notice of Opposition.

2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the Notice of Opposition.

3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations, namely the phrase “among others” contained in paragraph 3 of the Notice of Opposition. Opposer’s registration information contained in the table in paragraph 3 is admitted to the extent that the records of the United States Patent and Trademark Office confirm the information contained therein.

4. Admitted to the extent that the records of the United States Patent and Trademark Office confirm the information contained in paragraph 4 of the Notice of Opposition.

5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of the Notice of Opposition.

6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6 of the Notice of Opposition.

7. Denied.

8. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 8 of the Notice of Opposition.

9. Denied. Application Serial No. 78525633 is for use in connection with “Financial services, namely, banking, loan financing, and mortgage banking services.”

10. Admitted to the extent that the records of the United States Patent and Trademark Office confirm the information contained in paragraph 9 of the Notice of Opposition.

11. Denied.

12. Denied.
13. Admitted.
14. Denied.
15. Denied.
16. Denied.
17. Denied.

FURTHERMORE, Applicant sets forth the following in support of its defense:

18 Applicant's mark differs from Opposer's marks in sound, appearance, spelling and meaning.

19. Applicant's mark and Opposer's marks have very different commercial impressions.

20. Upon information and belief, the services used in connection with Applicant's mark are very different from the goods used in connection with Opposer's marks.

21. Upon information and belief, the wording MAX in Opposer's marks is used by multiple parties in Opposer's field and is diluted.

22. Applicant's mark is not likely to be confused with Opposer's marks.

23. Upon information and belief, Opposer's RE/MAX name and RE/MAX marks are not famous and not entitled to protection from dilution.

24. Upon information and belief, Opposer's marks would not be diluted by registration of Applicant's mark.

25. Upon information and belief, Opposer's services are likely to be purchased and used by sophisticated consumers.

26. Applicant's services are likely to be purchased and used by sophisticated consumers.
27. Opposer has failed to adequately maintain, police, or enforce any trademark or proprietary rights it may have in Opposer's marks.
28. The Notice of Opposition fails to state a claim upon which relief may be granted.

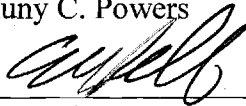
Opposer hereby appoints Erik M. Pelton, member of the Bar of the State of New Jersey, at Erik M. Pelton, Attorney at Law, PO Box 100637, Arlington, Virginia 22210, to act as attorney in the matter of the opposition identified above, to prosecute said opposition, to transact all business in the Patent and Trademark Office, and in the United States courts connected with the opposition, to sign its name to all papers which are hereinafter to be filed in connection therewith, and to receive all communications relating to the same.

WHEREFORE, Applicant prays that the Trademark Trial and Appeal Board deny the Opposition and permit registration of Applicant's proposed mark in Application Serial Number 78525633 in the United States Patent and Trademark Office.

A duplicate copy of this Answer to Amended Notice of Opposition has been sent via First Class Mail to counsel for Opposer on September 24, 2006.

Dated: September 24, 2006.

Respectfully Submitted,  
Tipmuny C. Powers

By:   
Erik M. Pelton, Esq.  
Attorney for Applicant

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**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the Answer to Amended Notice of Opposition was deposited as First Class mail with the United States Postal Service on September 24, 2006, to Counsel for Opposer at the following address:

Adam Lindquist Scoville  
RE/MAX International, Inc.  
8390 E. Crescent Parkway Suite 600  
Greenwood Village, CO 80111

By:   
Erik M. Pelton, Esq.